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Zoning Board of Appeals
City of Ann Arbor
301 East Huron
Ann Arbor, MI 48104

Re: Variance Request by Liubisa Mladenovic
Appeal regarding fence Height at
3720 Windemere Drive

Dear Ladies and Gentlemen;

I am writing on behalf of my clients, Mary Katherine Spires and Ann McCarren, the neighbors of Mr. Mladenovic, and the parties who will be most directly affected by what certainly appears to be a “spite fence.”

My hope with this letter is to provide some documentary support for the assertions made in my clients’ letter to you, and some further background.

1. With regard to the assertion that Mr. Mladenovic’s “privacy problem” is of his own making, the enlarged overhead photo of the site included in the package that staff has provided to you appears to date from 2020 and shows the pre-existing visual barrier that Mr. Mladenovic removed prior to embarking on the present project.
2. Mr. Mladenovic’s problem with the Earhart Knolls Homeowners’ Association is more serious than he is letting on. I am attaching a copy of the page in the Association’s Building and Use Restrictions that prohibit any “perimeter fence” altogether and allow other fencing only if “ornamental or decorative.” The restrictions have not been amended and may be privately enforced. During discussions with an attorney representing Mr. Mladenovic, the attorney was clearly aware of the restriction.
3. The letter “from the Association” which Mr. Mladenovic provided was from the Association’s treasurer and contemplates an actual application, which has NOT been submitted as yet. In correspondence with the former president of the Association I was given a copy of the Association’s current rule on fencing which would suggest that a fence, **not to exceed four feet** in height, could be permitted **only if Mr. Mladenovic’s neighbors approve in writing**. That approval will not be forthcoming.

Mr. Mladenovic's request to this Board is both premature and ill-founded. He does not have Association approval for a number of reasons and neither he nor this Board knows what manner of fence, if any, would be permitted and there is every possibility that he will not be permitted a perimeter fence at all. The "need" for this variance is also self-imposed.

Section 5.29.13(C) of the Unified Development Code states the General Criteria for approval of this request. It requires that the Board consider the rights of others whose property would be affected by allowing the variance and that the conditions and circumstances on which the variance request is based are not a self-imposed practical difficulty. Under the circumstances, Mr. Mladenovic's request does not meet this burden.

The Board should either deny the request or table it until approval by the Association is obtained.

Respectfully submitted,

/s/ JL

Joseph Lloyd

Attached: Overhead View of Site markup
Excerpt from Building and Use Restrictions
Earhart Knolls Fencing Rules.

3720 Windemere Dr

Windemere Dr

Visual barrier removed by Applicant



-  Railroads
-  Huron River
-  Tax Parcels



City of Ann Arbor



Map date: 4/28/2023
Any aerial imagery is circa 2020 unless otherwise noted
Terms of use: www.a2gov.org/terms

6. Building Location and Set-Back Lines. No building or structure shall be erected, altered or placed on any lot closer than 40 feet from Earhart Road and Glacier Way nor closer than 30 feet from any interior cul-de-sac right-of-way as platted and the interior street as platted leading thereto and forming a part of said cul-de-sac. Side yards set-backs shall be a total minimum of fourteen feet with the least side yard being a minimum of five feet.

7. Driveways. No driveways or curb cuts of any kind shall be placed or installed entering Earhart Road and Glacier Way. All driveways shall enter onto the interior streets.

8. Lot Area and Width. No single family lot shall hereafter be reduced in area more than twenty per cent of its original platted area.

9. Easements. Easements for installation and maintenance of public utilities and drainage facilities as shown on the recorded plat and as may be otherwise placed upon the property, including a 10 foot easement along and adjacent to all roadways, including cul-de-sacs, for installation of underground utilities, are reserved. Each owner shall maintain the surface area of easements within his property, to keep grass and weeds cut, to keep the area free of trash and debris and to take such action as may be necessary to eliminate or minimize surface erosion. Within these easements, no structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which public authorities or utility company is responsible. The easement around cul-de-sacs shall also permit placement of sidewalks. See Paragraph 29 for Samborski sewer easement.

10. Utilities. No utilities other than underground utilities shall at any time be installed on any lot in the subdivision, except as approved by the Architectural Control Committee provided for in these restrictions.

11. Fences. Perimeter fences along lot lines shall not be permitted. Ornamental or decorative fencing may be installed subject to the approval by the Architectural Committee.

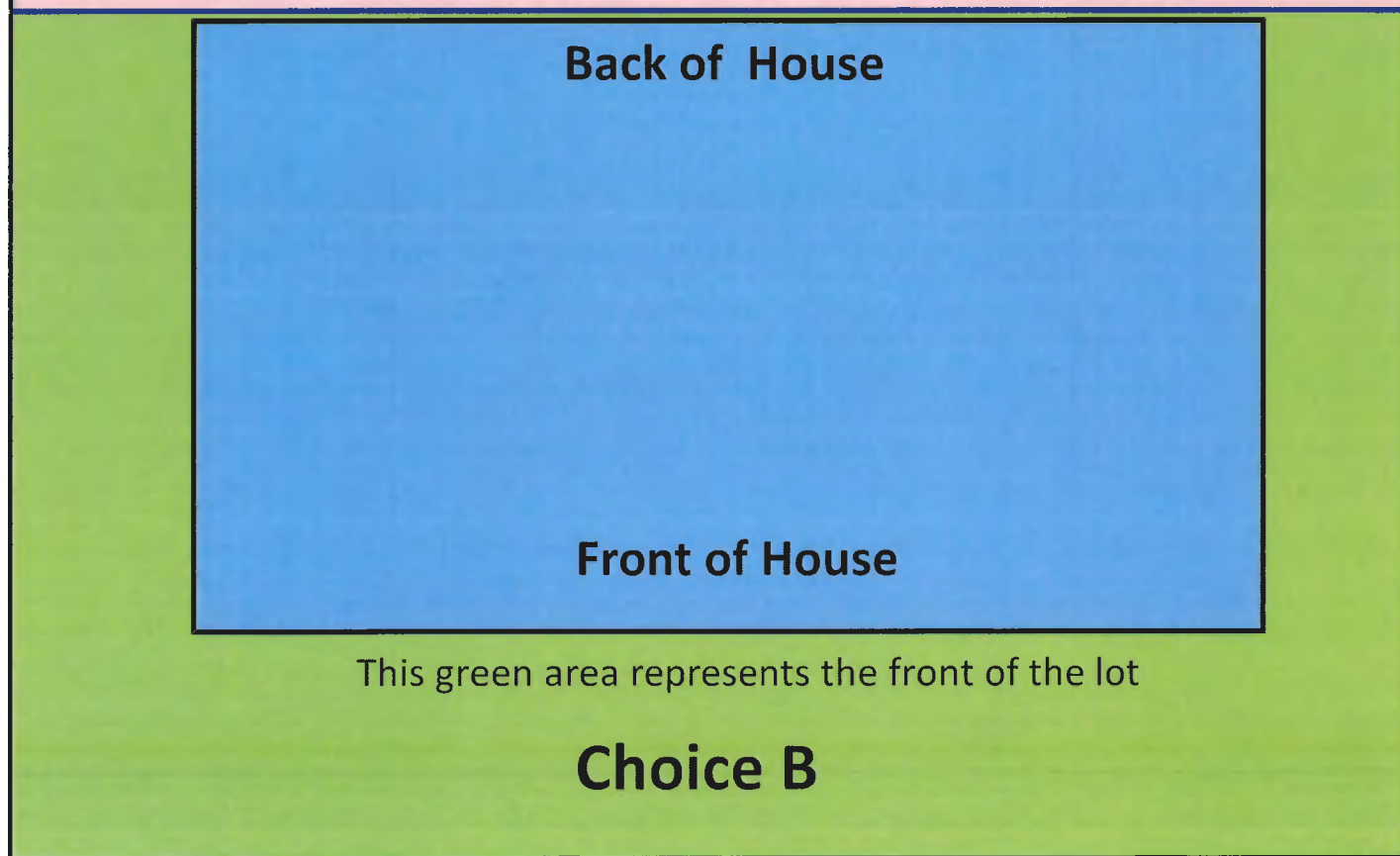
12. Trees and Sight Distance at Intersection. No hedge, shrub, tree planting, or any other installation more than two feet above the level of the roadway shall be placed or permitted to remain on any corner lot within the triangular area formed by the street curb lines and the line connecting them at point twenty feet from the intersection of the street curb lines.

13. Signs. No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than 5 square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period, and except for house numbers and resident names.

14. Antennas. No radio or television antenna or aerial shall be permitted other than the type commonly used for domestic residential use, provided, however, any such radio or television antenna shall be installed on the house and not on a separate pole and shall not extend fifteen feet in height above the roof of any structure.

15. Garbage and Refuse Disposal. No refuse shall be dumped or left on any lot. Every residential structure shall be provided with an approved type of garbage disposal unit. No exterior incinerators or other equipment shall be maintained on the premises for disposal of rubbish or garbage. No rubbish or garbage cans may be left outside.

Fences can be placed on property lines on sides of property and rear of property line per sketch. Maximum height is 4 feet however if home backs Earhart Rd or Glazier Way, maximum height can be up to 6 feet. **Exception:** when home is on a corner, fence can only be up to 4 feet and no more than 50% opacity per City of Ann Arbor fencing rules. Homeowner must have a stake survey done to verify property lines. Fence to be made of wood, metal, vinyl, brick or stone. No chain link or chicken wire fences are allowed. All contiguous neighbors need to give written approval of fence plan. Board approval is necessary as well. Fence cannot be installed until all contiguous neighbors and Board has given final approval.



Homeowner to present a sketch of lot showing fence lines, written approval of all contiguous neighbors and a photo of fence to the Earhart Knolls Board of Directors. No fencing is allowed to be installed until approval by all neighbors and Board.